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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

S.L., a minor by and through the
Guardian Ad Litem Kristine Llamas
Leyva, individually and as successor-in-
interest to JOHNNY RAY LLAMAS,
deceased; V.L., by and through the
Guardian Ad Litem Amber Snetsinger,
individually and as successor-in-interest
to JOHNNY RAY LLAMAS, deceased;
and CAROLYN CAMPBELL,
individually,

Plaintiffs,

v.

COUNTY OF RIVERSIDE; SHAWN
HUBACHEK; JIMMIE MCGUIRE; and
DOES 3-10, inclusive,

Defendants.

Case No. 5:24-cv-00249-CAS-SP

Honorable Christina A. Snyder

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO STAY
THE DISTRICT COURT
PROCEEDINGS**

Date: September 15, 2025

Time: 10:00 a.m.

Courtroom: 8D

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Except as to Plaintiffs' federal claims, Defendants' motion should be denied.

This Court's order on summary judgment included three sets of rulings, holding that:

(1) Plaintiff S.L. lacks standing to pursue wrongful death and survival claims under federal and state law, but genuine disputes of material fact regarding Plaintiffs' standing preclude summary judgment on standing grounds as to all of Plaintiff V.L.'s claims and all Plaintiffs' Fourteenth Amendment claims [Dkt. 54 at 10-19];

(2) Defendants are not entitled to qualified immunity for Plaintiffs' federal claims due to the existence of genuine disputes of material fact and because, resolving all disputed material facts in Plaintiffs' favor, the law governing the federal claims was clearly established at the time of the incident [*id.* at 19-27]; and

(3) the existence of genuine disputes of material fact precludes summary judgment as to Plaintiff V.L.'s state law claims. [*Id.* at 28-30.]

Having filed a notice of appeal from this Court's summary judgment order, Defendants now seek to stay the entire action in this Court. But controlling precedent entitles Defendants to a stay only as to those claims, or aspects thereof, that are properly subject to interlocutory appeal. Because this Court's rulings on standing and Plaintiff V.L.'s state law claims are *not* subject to interlocutory appeal, Defendants' appeal is frivolous insofar as it seeks to appeal those rulings, so no stay should issue as to the state law claims. And because the balance of the equities favors allowing Plaintiff V.L. to proceed in this Court with her state law claims during the pendency of Defendants' qualified immunity appeal, an exercise of the

1 Court’s discretion to stay the entire case is not warranted. Thus, except as to
2 Plaintiffs’ federal claims, Defendants’ motion to stay should be denied.¹

3 **II. AN AUTOMATIC STAY SHOULD NOT ISSUE AS TO PLAINTIFF’S**
4 **STATE LAW CLAIMS BECAUSE FRIVOLOUS APPEALS DO NOT**
5 **DIVEST THIS COURT OF JURISDICTION**

6 As Defendants note, the filing of a notice of appeal “divests the district court
7 of its control over *those aspects of the case involved in the appeal.*” *Griggs v.*
8 *Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (emphasis added).
9 However, where the district court recognizes that an interlocutory appeal, or certain
10 aspects thereof, is frivolous, it may proceed with those aspects of the case that have
11 been appealed frivolously. *See Rodriguez v. County of Los Angeles*, 891 F.3d 776,
12 790-91 (9th Cir. 2018) (collecting cases); *Chuman v. Wright*, 960 F.2d 104, 105 (9th
13 Cir. 1992).

14 As relevant to Defendants’ appeal, the Ninth Circuit “may exercise
15 [interlocutory appellate] jurisdiction over issues that do not require resolution of
16 factual disputes, including in cases where officers argue that they have qualified
17 immunity, assuming the facts most favorable to the plaintiff.” *Rodriguez*, 891 F.3d
18 at 791. The Ninth Circuit’s authority to entertain interlocutory appeals is thus
19 limited to appeals involving purely legal issues, *Foster v. City of Indio*, 908 F.3d
20 1204, 1210 (9th Cir. 2018) (“A public official may not immediately appeal ‘a *fact-*
21 *related dispute about the pretrial record, namely, whether or not the evidence in the*
22 *pretrial record was sufficient to show a genuine issue of fact for trial. . . . To the*
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25 ¹ As is noted in the materials attached to Defense counsel’s declaration, this case
26 is currently set for mediation for September 10, 2025. (Declaration of Kayleigh
27 Andersen, Ex. A at 2 [Dkt. 63-1 at 5].) If the case does not settle at mediation,
28 Plaintiffs anticipate moving in the Ninth Circuit for an order dismissing Defendants’
appeal to the extent it seeks interlocutory review of this Court’s summary judgment
rulings on standing and V.L.’s state law claims, consistent with this Opposition.

1 extent the district court’s order denies summary judgment on purely legal issues,
2 however, we do have jurisdiction.”); *see, e.g., Ortiz v. Jordan*, 562 U.S. 180, 188
3 (2011); *Estate of Anderson v. Marsh*, 985 F.3d 726, 730-31 (9th Cir. 2021);
4 *Rodriguez*, 891 F.3d at 791, except where otherwise authorized by statute or binding
5 precedent, *Johnson v. Jones*, 515 U.S. 304, 310-11 (1995). By the same token,
6 following a notice of appeal, district courts are precluded from proceeding with trial
7 only as to purely legal issues for which precedent authorizes the taking of an
8 interlocutory appeal, as a limited exception to the final judgment rule, because
9 interlocutory appeals of other issues are improper and thus are frivolous. *Rodriguez*,
10 891 F.3d at 790-91; *see Johnson*, 515 U.S. at 309-10; *Foster*, 908 F.3d at 1210.

11 All respects in which this Court denied summary judgment depended on this
12 Court’s identification of genuinely disputed issues of material fact, with the sole
13 exception of its determination, in addressing the second prong of qualified
14 immunity, that the law governing Plaintiffs’ federal claims was clearly established.
15 [See Dkt. 54 at 25-27.] This was the only purely legal issue decided in the Court’s
16 order. *See Foster*, 908 F.3d at 1210. As such, all other aspects of the Court’s order
17 are *not* immediately appealable, rendering Defendants’ appeal of those aspects of
18 the order frivolous.

19 **A. Standing**

20 Ninth Circuit precedent expressly precludes interlocutory appeals of rulings
21 on standing: “District courts may, of course, address standing when passing on Rule
22 12(b)(6) and 56 motions predicated on qualified immunity, but any ruling on such
23 issues will generally be independent of the qualified immunity inquiry itself and
24 *cannot be raised on interlocutory appeal.*” *Eng v. Cooley*, 552 F.3d 1062, 1068 n.2
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1 (9th Cir. 2009) (emphasis added).² Accordingly, to the extent it seeks interlocutory
2 review of this Court’s standing rulings, Defendants’ appeal is frivolous.

3 In their motion, Defendants provide no reason why they may appeal the
4 Court’s standing rulings on an interlocutory basis. (Mot. at 4-5 [Dkt. 63].) Although
5 they assert that their appeal “on the basis of standing is not frivolous as concrete
6 legal questions exist,” (*id.*), whether “concrete legal questions exist” is not the
7 standard for whether an interlocutory appeal may be taken. Rather, as explained
8 above, the appealed issue must be one specially exempted from the final judgment
9 rule and, in appeals on summary judgment, must be purely legal. *Johnson*, 515 U.S.
10 at 310-11; *Foster*, 908 F.3d at 1210. But as noted, this Court’s standing rulings
11 turned on its identification of disputed issues of fact [*see, e.g.*, Dkt. 54 at 16 (“[T]he
12 Court finds that disputed factual issues related to Llamas’ presumed parenthood
13 over V.L., and therefore V.L.’s status as a successor in interest to Llamas, preclude
14 the Court from granting summary judgment on [V.L.’s standing to bring survival
15 claims.”), 17 (“The Court finds that a triable issue exists [as to V.L.’s standing to
16 bring wrongful death claims] . . . due to disputed facts regarding whether Llamas is
17 V.L.’s presumed parent. If a reasonable jury determines that Llamas was her
18 presumed parent, V.L. will have standing to bring these claims.”)], so they are
19 necessarily not purely legal.

20 Further, the “concrete legal questions” Defendants purport to identify depend
21 on the same factual arguments raised in Defendants’ summary judgment motion and
22 ruled on by the Court, and in the instant motion Defendants make clear that they

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24 ² Although *Eng* noted that in “rare circumstance[s]” a standing ruling may be
25 “‘inextricably intertwined’ with the qualified immunity decision” and thereby
26 enable interlocutory appeal, *id.* (quoting *Swint v. Chambers County Com’n*, 514
27 U.S. 35, 50-51 (1995)), no colorable argument exists that this is the case here. The
28 basis of this Court’s rulings on standing were based on Plaintiffs’ relationship with
their decedent, Mr. Llamas, before his death, and had nothing to do with the
underlying incident in which Defendants killed Mr. Llamas. [*See* Dkt. 54 at 12-19.]

1 simply seek to relitigate the same arguments on appeal. (*Compare* Mot. at 4-5 with
2 Motion for Summary Judgment at 16-21 [Dkt. 43 at 27-32].) This supplies no
3 justification for a stay.

4 Because Defendants' interlocutory appeal of this Court's standing rulings is
5 frivolous, Defendants are not entitled to an automatic stay on this issue.

6 **B. State Law Claims**

7 In their motion, except in explaining their claimed basis for seeking
8 interlocutory appeal of this Court's standing rulings, Defendants do not address
9 Plaintiff V.L.'s state law claims at all, as would be necessary to justify a stay as to
10 those claims. (*See* Mot. at 4-5 (asserting in a header that "all remaining claims are
11 aspects on appeal" (bold and capital typeface omitted); referencing "the Remaining
12 ... State Claims" in a subheader addressing "Standing Issues"; and referencing
13 V.L.'s survival and wrongful death claims in the context of standing).) Having
14 failed to address these claims, Defendants make no argument as to why they should
15 be automatically stayed.

16 Indeed, no legitimate basis for interlocutory appeal of this Court's denial of
17 summary judgment as to V.L.'s state law claims exists. The only legitimate basis for
18 interlocutory appeal of a summary judgment order denying qualified immunity
19 concerns the purely legal questions involved:

20 In *Johnson v. Jones*, 515 U.S. 304 (1995), the Supreme Court explained that
21 any "portion of a district court's summary judgment order that, though
22 entered in a 'qualified immunity' case, determines only a question of
23 'evidence sufficiency,' *i.e.*, which facts a party may, or may not, be able to
24 prove at trial . . . is not appealable." By contrast, any portion of a summary
25 judgment order that turns on "the application of 'clearly established' law to a
given (for appellate purposes undisputed) set of facts" is immediately
appealable.

26 *Estate of Anderson*, 985 F.3d at 730-31 (quoting *Johnson*, 515 U.S. at 313) (internal
27 citation omitted); *see Foster*, 908 F.3d at 1210. But, as noted, this Court's denial of
28 summary judgment as to V.L.'s state law claims was premised on the Court's

determination that material facts bearing on those claims are genuinely disputed. [Dkt. 54 at 28-30.] Thus, Defendants' interlocutory appeal of this Court's rulings on V.L.'s state law claims is also frivolous, and Defendants are not entitled to an automatic stay as to those claims.

The Court should find that all aspects of Defendants' interlocutory appeal save for qualified immunity are frivolous and should not stay the other aspects of this case.

III. A DISCRETIONARY STAY IS NOT WARRANTED

In deciding whether to issue a discretionary stay, Courts in the Ninth Circuit apply "three non-exclusive factors": "(1) 'the possible damage which may result from the granting of a stay'; (2) 'the hardship or inequity which a party may suffer in being required to go forward'; and (3) 'the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law.'" *Ernest Bock, LLC v. Steelman*, 76 F.4th 827, 842 (9th Cir. 2023) (quoting *Lockyer v. Mirant Corp.*, 389 F.3d 1098, 1110 (9th Cir. 2005)).

First, Plaintiffs will suffer substantial prejudice if the Court stays these proceedings in their entirety. Plaintiffs have been attempting to seek justice for their decedent, Mr. Llamas, since Defendants fatally shot him on April 14, 2023, more than two years ago. If the Court stays all proceedings, Plaintiffs' day in court will be delayed further, likely by a year or more, even though there are discrete claims that are not subject to interlocutory appeal, as explained above. Certain evidence, such as witnesses' recollections, may also become staler with this additional delay. And prolonging resolution of the state law claims which are not subject to interlocutory appeal would be unnecessarily taxing on Plaintiffs, given the natural emotional difficulty of their loss of Mr. Llamas.

Second, the balance of hardships favors allowing the state claims to proceed to trial. Any concerns from Defendants that proceeding to trial now on the state law claims may result in duplicative efforts by the parties apply equally to Defendants

1 and Plaintiffs. In addition, Defendants’ concerns do not outweigh the prejudice that
2 would be done to Plaintiffs by delaying trial on the state law claims. Defendants
3 would suffer minimal prejudice in having the case proceed to trial on the state law
4 claims. If Defendants’ appeal of this Court’s denial of qualified immunity is
5 successful—as Defendants hope it will be—the state law claims would remain, and
6 Defendants would nevertheless have to proceed to trial on those claims.

7 Third, efficiency factors do not warrant a stay. As Defendants acknowledge,
8 collateral estoppel could limit issues and preserve judicial efficiency in a second
9 trial on Plaintiffs’ federal claims. (Mot. at 7.) In that event, declining to stay the
10 state law claims would not likely require significant duplicative efforts from either
11 party, and the risk of inconsistent rulings is minimal. Balanced against the prejudice
12 to Plaintiffs that a stay would cause and the lack of inequity in any hardship that the
13 parties would experience, this factor does not warrant a stay, so Defendants’ motion
14 should be denied as to standing and the state law claims.

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1 **IV. CONCLUSION**

2 Plaintiffs respectfully request the Court deny Defendants' Motion, except as
3 to Plaintiffs' federal claims.

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5 DATED: August 25, 2025

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7 Bv /s/ Benjamin S. Levine

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9 Attorneys for Plaintiff V.L.

10 DATED: August 25, 2025

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12 Bv /s/ Lawrence D. Marks

13 Garo Mardirossian

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26 _____
27 ³ Pursuant to Local Rule 5-4.3.4, as the filer of this document, I attest that all other
28 signatories listed, and on whose behalf the filing is submitted, concur in the filing's
content and have authorized the filing

CERTIFICATION OF COMPLIANCE WITH WORD LIMIT (L.R. 11-6.1)

The undersigned, counsel of record for Plaintiff V.L., certifies that this brief contains **2,127** words, which complies with the word limit of L.R. 11-6.1.

DATED: August 25, 2025

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